
MEMORANDUM

SUBJECT: Enhancing EPA's Compliance Assistance Programs

FROM: Sylvia K. Lowrance
Acting Assistant Administrator

TO: Regional Administrators, Regions I-X

The purpose of this memorandum is to recommend a number of actions to enhance EPA's compliance assistance programs and encourage compliance assurance strategies which give due consideration to the full range of compliance and enforcement tools. To achieve Goal 9 of EPA's Strategic Plan ("provide a credible deterrent to pollution and greater compliance with the law"), EPA will need to use all its tools - assistance, incentives, monitoring and enforcement - in an integrated fashion to promote compliance with environmental requirements. As you may recall from the FY2003 Operating Year Priorities Meeting in January, the Office of Enforcement and Compliance Assurance (OECA) has identified better integration of compliance assistance into our enforcement strategies as one of five priorities for the national program.

In order to identify ways of better integrating our compliance assurance efforts, managers from the Office of Compliance's (OC) Compliance Assistance and Sector Programs Division visited all ten regions to discuss the national and Regional compliance assistance programs. Based on these visits and other analyses, we have identified steps we all can undertake to strengthen the foundation of the compliance assistance program. We discussed the results and recommendations of these visits at our Senior Enforcement Managers Meeting in San Francisco in January. During that meeting, we discussed four basic actions Regions can take to improve regional compliance assistance programs. We also agreed to form a senior level steering committee to deal with compliance assistance policy and implementation issues at the national level. This memorandum outlines the recommendations for the Regions and the charge for the National Steering Committee on Compliance Assistance Policy and Infrastructure (CAPI).

BUILDING AN EFFECTIVE COMPLIANCE ASSISTANCE PROGRAM

The Regional visits identified several characteristics which seemed to enhance Regional compliance assistance programs. Each of these are described below:

1. Management Support. The strongest Regional assistance programs provide **support for compliance assistance at all management levels** - senior, mid-level and front-line. Management needs to provide perspective about using the appropriate mix of tools to address noncompliance and highlight the value of integrated strategies in increasing both the efficient use of resources and program effectiveness.

2. Organizing Mechanism. A second important characteristic of effective compliance assistance programs is establishment of a **formal network, workgroup or other mechanism to foster communication and coordination** among internal regional compliance assistance practitioners as well as with external environmental assistance providers. For example, some regions have created a formal compliance assistance workgroup of compliance and program personnel. The establishment of a central coordinator for compliance assistance can be a tremendous asset in establishing and maintaining these mechanisms. Other Regions have chosen to create an **organizational structure** that facilitates communication and coordination among the compliance assistance, enforcement, monitoring, program and pollution prevention personnel.

3. Other Characteristics. Regional programs which possess the building blocks of a strong compliance assistance program may also exhibit a variety of the following secondary characteristics which strengthen their programs:

- ▶ **Undertake initiatives using a problem-solving approach** which considers all appropriate compliance assurance tools. Region II used this approach in its universities initiative to identify the environmental problems that needed to be addressed and develop a strategy that utilized compliance assistance, incentives, monitoring and enforcement;
- ▶ **Practice strategic coordination and planning between the Region and states** on national and Regional compliance assistance priorities and activities. Region VI, for example, meets with its states on compliance assistance priorities as part of the state grant and MOA negotiations;
- ▶ **Employ proactive efforts to target environmental problems** that could be addressed, at least in part, by compliance assistance.
- ▶ **Support inspectors who make compliance assistance part of their routine activities;**
- ▶ **Use measures of success** to highlight results and efficiencies of combined or integrated efforts to address significant problems. Region III managers recently launched two compliance assistance outcome measurement projects over the course of two summers to assess behavioral, process and environmental changes at facilities.

TAKING ACTION TO STRENGTHEN THE PROGRAM

The characteristics discussed above are based on the best practices from our analysis of Regional compliance assistance programs. Each Region should begin efforts to ensure the following components are in place to strengthen the compliance assistance program in particular and the compliance assurance program overall.

1. Establish a Regional Compliance Assistance Coordinator

Creating this position recognizes that compliance assistance is a vital and dynamic part of EPA's mission and will provide a focal point for information on, and organization of, ongoing compliance assistance activities. A more detailed description of the Coordinator's role is outlined in Attachment 1.

Coordinators should be senior people who can articulate the Region's vision and commitment to compliance assistance and be knowledgeable about the Region's efforts. In addition, Coordinators should be able to interact effectively with Regional enforcement and compliance monitoring personnel, and the Office of Compliance's Regional Analysts. Coordinators should have access to regional senior managers on compliance assistance issues. Ideally, they will work with or for the Regional Enforcement Coordinator or the Enforcement Division Director, and perform in a manner similar to MOA, pollution prevention and federal facilities coordinators.

The Coordinator position should utilize the expertise already developed by Regional compliance assistance staff, particularly members of the Agency-wide workgroup that helped develop the National Compliance Assistance Clearinghouse, the Compliance Assistance Activity Plan, and the Compliance Assistance Forum. We foresee that the Coordinator's responsibilities will entail 0.5 to 1 FTE per Region. Seven additional FTE have been redirected to the compliance assistance program component in FY 2002 for distribution among the ten regional offices which can help cover resources for the Coordinator position.

2. Establish a Formal Compliance Assistance Communication Network

Establish a mechanism to facilitate ongoing communication, coordination and planning among compliance assistance and other environmental assistance providers both within the Regional office and with states and other external parties. Some Regions have created formal workgroups, teams, and /or e-mail group lists to make Regional assistance efforts more visible, strategic and effective.

3. Coordinate with States on Compliance Assistance Planning

In preparation for the next MOA cycle, each Region should coordinate with its states in planning for compliance assistance activities to support national and regional priorities as well as core activities. Preplanning with the states on compliance assistance is, in fact, an element of the Core Compliance Assistance Program (Attachment 2). Few Regions actually discuss compliance assistance strategically and as part of the overall compliance assurance program in planning how to fulfill MOA commitments.

4. Strategically Build Compliance Assistance into the National and Regional Planning Processes

Beginning in FY 2003, use the Compliance Assistance Projects Reporting Form to help strategically integrate compliance assistance into your overall compliance and enforcement program. This form was piloted in FY 2001 by five Regions and was effective in ensuring management engagement and coordinated up-front planning during the MOA process. Based on discussions with these Regions and analysis of Headquarters information needs, we have revised the form for use by *all* Regions. Further, ensure that staff are familiar with the revised Core Compliance Assistance Program (Attachment 2) that is part of the FY 02-03 MOA guidance. The guidance sets out the current compliance assistance activities that should be a part of your compliance assurance program.

ESTABLISHING THE COMPLIANCE ASSISTANCE POLICY AND INFRASTRUCTURE (CAPI) STEERING COMMITTEE

At the Senior Enforcement Managers Meeting in San Francisco in January, 2002 several issues surrounding the basic infrastructure and policies of the national compliance assistance program were raised. There was general agreement that a senior level steering committee was needed to improve the policies and infrastructure of the compliance assistance program to ensure that it is more fully integrated with the national compliance assurance program. This steering committee will make recommendations to the senior managers that build on the four basic actions identified above and will also include the following issues :

1. Reviewing the core compliance assistance framework for both the national and regional programs and suggesting changes to ensure a strong compliance assistance infrastructure;
1. Identifying ways to integrate compliance assistance more prominently in the MOA process;
2. Creating and using common measures for results of compliance assistance activities and highlighting compliance assistance achievements in the Annual Performance Report and other venues;
3. Developing a strategy to pilot integrated strategies in FY 2003 across the Regions that includes measurable results for compliance assistance.

The Office of Compliance will be establishing this Steering Committee over the next month, and will be requesting the participation of several Regional and Headquarters managers. Once the group is established, we will outline the membership and the specific charge on an upcoming Senior Managers conference call in early March. Our expectation is that this group will formulate recommendations on these issues for us to discuss at the next Senior Managers meeting this summer.

Thank you for helping to improve the overall compliance and enforcement program by strengthening your compliance assistance programs. Please send the name of your Compliance Assistance Coordinator to Deborah Thomas, Chief of the Compliance Assistance Policy and Integration Branch by **March 14, 2002**, at mail code 2224, by fax at (202) 564-7083, or by E-mail at Thomas.Deborah@epa.gov. Please feel free to contact Michael Stahl, Director of the Office of Compliance, if you have any questions concerning this memorandum.

Attachments

cc: Deputy Regional Administrators
Michael Stahl, Office of Compliance
Lisa Lund, Office of Compliance
Eric Schaeffer, Office of Regulatory Enforcement
Connie Musgrove, Office of Regulatory Enforcement
Division Directors, Office of Compliance and Office of Regulatory Enforcement
Regional Enforcement Division Directors and Coordinators
EPA Compliance Assistance Workgroup

ATTACHMENT 1

THE ROLE OF THE COMPLIANCE ASSISTANCE COORDINATOR

- **Regional Expert:** Serve as the “expert” within the region on regional compliance assistance priorities, strategies, and performance measurement.
- **Regional Coordination:** Serve as the focal point for coordinating regional response to requests from Headquarters and regional participation in national compliance assistance initiatives and the compliance assistance components of integrated compliance assurance strategies.
- **Coordinate with Lead Region and the Office of Compliance:** Coordinate with the Lead Region for compliance assistance, OC’s Regional Analysis and Coordination Team, and OC’s Compliance Assistance and Sector Programs Division on compliance assistance issues or activities that are or should be integrated with enforcement initiatives, involve potential resource tradeoffs, or need a coordinated response from OECA.
- **Planning and Integration:** Work with the Regional Enforcement and MOA Coordinators in developing and implementing national and regional compliance assistance priorities and strategies during the MOA process and other planning processes. Involve states in compliance assistance planning and priority setting. Ensure that regional activities related to MOA priorities are integrated into the annual Compliance Assistance Plan.
- **Compliance Assistance Plan and Clearinghouse Input:** Coordinate regional input into the National Compliance Assistance Clearinghouse and the Compliance Assistance Activity Plan.
- **Tool Wholesaling and Promotion:** Promote compliance assistance in regions, states, and tribes and provide compliance assistance tools and materials to compliance assistance providers and inspectors.
- **Policy Development:** Assist in the development of OC’s compliance assistance policies and guidance.
- **Information Sharing:** Share lessons learned about compliance assistance activities and tools with other regions to maximize effectiveness of the compliance assistance program through monthly conference calls, periodic national meetings, and other vehicles.
- **Coordination with States, Tribes, and Other Providers:** Coordinate and share tools, information and best practices with state and tribal compliance assistance providers, Small

Business Assistance Providers, Small Business Development Committees, and other compliance assistance providers.

- **Tracking and Accountability:** Coordinate compliance assistance tracking and measurement activities within the Region, including coordinating regional input into the Regional Compliance Assistance Tracking System.

ATTACHMENT 2

FY 2002/2003 MOA Compliance Assistance Core Program

All Regional programs should:

- Utilize compliance assistance, as appropriate, to help ensure that the regulated community understands its regulatory obligations and how to comply with environmental requirements and track and measure the results of compliance assistance activities.

Compliance Assistance includes activities, tools or technical assistance which provide clear and consistent information for 1) helping the regulated community understand and meet its obligations under environmental regulations; or 2) compliance assistance providers to aid the regulated community in complying with environmental regulations. At least one objective of compliance assistance must be related to achieving or advancing regulatory compliance. Compliance assistance may also help the regulated community find cost-effective ways to comply with regulations and/or go “beyond compliance” through the use of pollution prevention, environmental management practices and innovative technologies, thus improving environmental performance. The core national compliance assistance program in the Regions consists of the following activities:

- ▶ Conducting workshops/training, making presentations at meetings, developing compliance assistance tools, distributing outreach material, conducting on-site visits, providing telephone/hotline assistance
- ▶ Focusing compliance assistance efforts on targeted environmental problems, as well as on new rules, SBREFA rules or economically significant rules targeting, in particular, small businesses and communities which often lack expertise to understand technical environmental regulations.
- ▶ Using compliance assistance in integrated enforcement strategies, as appropriate
- ▶ Contributing Regional projects to the annual Compliance Assistance Activity Plan
- ▶ Measuring the outputs of compliance assistance activities and outcomes of selected activities
- ▶ Reporting on compliance assistance activities in the Reporting Compliance Assistance Tracking System (RCATS)
- ▶ Serving predominantly as a “wholesaler” of compliance assistance to enable other assistance providers to offer assistance directly to the regulated community. “Retail” or direct assistance should be focused on non-delegated programs and national/Regional initiatives, as appropriate.
- ▶ Promoting national compliance assistance tools and activities such as the National Compliance Assistance Clearinghouse, the Compliance Assistance Centers and Compliance Assistance Forum
- ▶ Using compliance assistance materials in conjunction with the Small Business Compliance Policy and encouraging states to adopt EPA’s 1995 Small

Communities Policy

- ▶ Coordinating with Headquarters, other EPA Regions and other compliance assistance providers, such as states, on compliance assistance needs and activities and enabling providers to leverage resources
- ▶ Holding an annual Regional stakeholder meeting(s) to obtain feedback on compliance assistance planning
- ▶ Assisting in compliance assistance targeting and data analysis, e.g., in selecting sectors that need assistance and developing compliance assistance materials

Regions should undertake these compliance assistance activities strategically, employing integrated planning and use of compliance assistance tools, as appropriate, tracking the results and measuring the effectiveness of compliance assistance activities. Inspectors providing Tier I or Tier II compliance assistance during compliance inspections in accordance with the recommendations of the Role of the EPA Inspector in Providing Compliance Assistance should refer to the Core Compliance Monitoring Program Activities section.